

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>11-V-10624-RAP</b>
	)	
<b>PETER MANUEL MARQUEZ,</b>	)	<b>DECISION ON PETITION FOR RELIEF</b>
	)	<b>FROM ACTUAL SUSPENSION</b>
<b>Member No. 219823,</b>	)	
	)	
<u>A Member of the State Bar.</u>	)	

**I. INTRODUCTION**

The issue in this matter is whether Peter Manuel Marquez (petitioner) has demonstrated, to the satisfaction of this court, his rehabilitation, present fitness to practice, and present learning and ability in the general law so that he may be relieved from his actual suspension from the practice of law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)<sup>1</sup>

For the reasons set forth in this decision, the court finds that petitioner has shown, by a preponderance of evidence, that he has satisfied the requirements of standard 1.4(c)(ii).

Therefore, the petition is **GRANTED**.

**II. PROCEDURAL HISTORY**

The verified petition in this matter was filed on February 1, 2011. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed its response in opposition to the petition on March 18, 2011. Petitioner was represented in this matter by attorney Arthur

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<sup>1</sup> All further references to standard(s) or std. are to this source.

Margolis. The State Bar was represented by Deputy Trial Counsel Hugh Radigan. The hearing was held on April 12, 2011. The matter was submitted for decision after the hearing.

### **III. JURISDICTION**

Petitioner was admitted to the practice of law in California on June 4, 2002, and at all times mentioned herein, has been a member of the State Bar of California.

### **IV. FINDINGS OF FACT**

#### ***A. Background of Criminal and Disciplinary Matters.***

On May 6, 2008, petitioner was convicted of the following four felony offenses: (1) North Carolina General Statute section 90-95(h)(1) (possession of more than 50 pounds of marijuana); (2) North Carolina General Statute section 90-95(i) (conspiracy to traffic marijuana – more than 50 pounds); (3) North Carolina General Statute section 90-95(a)(1) (possession with intent to sell a controlled substance – more than 50 pounds of marijuana); and (4) North Carolina General Statute 90-108(a)(7) (keep and maintain a dwelling house used for selling a controlled substance – more than 50 pounds of marijuana).

In February 2009, petitioner was sentenced to 90 days in county jail (with credit for 42 days served), and placed on four years of supervised probation. Petitioner was also ordered to pay a fine of \$25,000.

The Review Department of the State Bar Court, by Order of July 30, 2008, placed petitioner on interim suspension, effective August 29, 2008.

On September 18, 2009, the Review Department referred petitioner's convictions for a hearing and decision recommending the discipline to be imposed if the facts and circumstances surrounding the convictions involved moral turpitude or other misconduct warranting discipline.

Petitioner and the State Bar thereafter entered into a Stipulation Re Facts, Conclusions of Law and Disposition. The Hearing Department of the State Bar Court filed its order approving the stipulation on April 7, 2010. The stipulation recommended to the Supreme Court, among other things, that petitioner be suspended from the practice of law for four years; that execution of such suspension be stayed; and that petitioner be placed on probation for four years. The stipulation also included a recommendation that petitioner be actually suspended for 30 months

(with credit for his period of interim suspension) and until he shows proof to the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the general law.

The State Bar Court's recommended disposition was approved by the California Supreme Court in its Order filed August 3, 2010, effective September 2, 2010.

Petitioner's convictions involving four felony offenses arose from petitioner's arrest on April 10, 2007, by the Winston-Salem Police Department in North Carolina. Respondent was a willing participant in a conspiracy with his brother-in-law, Javier Soto (Soto) to traffic marijuana.

**B. Background of Petitioner's Criminal Activity**

In December 2006, petitioner was practicing law in California and not making much money doing so. Petitioner felt his life was unfocused and directionless. He was drawn to Soto, whose company he enjoyed.

In January 2007, petitioner, who was living in California, traveled with Soto to North Carolina. Petitioner was present at a meeting between Soto, Clark Anthony Russell (Russell), and others, where the buying and selling of about 50 pounds of marijuana and money were discussed.

About two weeks later, petitioner again accompanied Soto to North Carolina and met with the same people. Soto had 50 pounds of marijuana delivered to the house where Soto and petitioner were staying. Petitioner received the funds from the marijuana sale (\$20,000 to \$25,000 in cash) and sent the money in a hollowed out book via Federal Express to Soto in Houston, Texas. Petitioner received about \$2,000 to \$3,000 and free marijuana from Soto for his participation in the drug transaction.

In addition, petitioner transferred approximately \$20,000 to \$25,000 in cash to Soto in Texas on at least two more occasions, sending the cash by Federal Express in hollowed out books. In total, petitioner transferred approximately \$70,000 to \$75,000 in cash to Soto. Petitioner knew the money was being paid to Soto for purchased drugs.

In or about February or March 2007, petitioner relocated to Winston-Salem, North Carolina and rented a house, even though he had no job. Soto gave petitioner approximately \$2,000 to \$3,000 to traffic drugs. This arrangement continued until petitioner's arrest.

Prior to April 10, 2007, Soto informed respondent that two packages containing 40-50 pounds of marijuana would be delivered to the house. Petitioner understood the marijuana was for Russell. Petitioner was hoping he would be permitted to keep one to three pounds of marijuana.

On April 20, 2007, Federal Express delivered two packages to petitioner's house, totaling about 60 pounds of marijuana. The packages were left outside the door by Federal Express delivery. Petitioner went outside and brought the packages into the house. Unbeknownst to petitioner, the house was under surveillance by the Winston-Salem Police Department.

Police entered the house and arrested petitioner. Police found the two packages, a plastic bag with one pound of marijuana, drug paraphernalia, and \$1,034 in cash.

Petitioner was not always a person who was unfocused and directionless. As a teenager, petitioner worked on weekends and after school with his father at a truck yard. While still in high school, he worked part-time in department stores as a fragrance modeler.

While in community college, petitioner bought an old dump truck, renovated it, and was a dump truck owner/driver. By 2005, petitioner owned six dump trucks and employed drivers for the trucks. Unfortunately, petitioner's business took a downward turn when his main customer notified him that he was no longer employing petitioner and his trucks. By October 2005, petitioner was forced to close his business.

Petitioner had been working full-time during the day and going to school at night. Petitioner first attended Cypress Community College, then Fullerton College, and finally law school. When his business closed, petitioner was devastated and felt blindsided. Without his business, petitioner felt ashamed, without an identity, unfocused, and directionless. To add to his feelings, petitioner had only been married one month when his business lost its only customer. Petitioner's life was in an upheaval, and this caused problems in his marriage.

During this period, petitioner became involved with Soto. Petitioner was swayed by Soto's charisma and confidence. Petitioner felt that Soto had become his older brother and just talking to him made petitioner feel good. Petitioner's deepening relationship with Soto eventually led to petitioner's arrest and convictions in North Carolina.

**C. *Rehabilitation and Present Fitness to Practice Law***

While in county jail after his arrest and conviction, petitioner reflected on the course his life had taken. Petitioner had never considered himself to be a religious person, but found himself reaching for the Bible to help gain insight and order to his life. This led petitioner to develop new habits and to gradually evolve into the person he is today.

While in county jail, petitioner met with various prison ministers and felt born again. This brought about a change in his life and he felt motivated to pursue this change.

When released from county jail, petitioner met Reverend Guillermo Mora, who allowed petitioner and his wife to stay in Reverend Mora's house for two and one-half months. Reverend Mora was an inspiration to petitioner, and he introduced petitioner to a new pastor and his church. Petitioner grew so close to Reverend Mora that some people thought he was his son. Petitioner would accompany Reverend Mora on pastoral visits, on visits to recent widows and widowers, and would give free rides to the food bank. Petitioner admires Reverend Mora more than any other person.

Petitioner also met with Pastor Paul Kinter during this time and started to attend his church. When petitioner was forced to return to county jail to finish his sentence, Pastor Kintner would visit petitioner and counsel him.

When petitioner returned to California in 2009, he met Pastor Dane Aaker, who was the lead pastor in his church, located in the city of Colton. Petitioner still remains in regular contact with Reverend Mora and Pastor Kintner.

While attending Alcoholics Anonymous (AA) meetings, petitioner met Roberto Gonzalez (Gonzalez) and felt a connection with him. Gonzalez is a kind and gentle person, and petitioner told Gonzalez of his past problems. Petitioner feels attending AA meetings has given him additional tools to manage life. Petitioner has not consumed alcohol since April 2007, although

he questions whether he is an alcoholic. Sometimes petitioner believes he is an alcoholic and other times that he is not, but he knows alcohol and drugs played a part in his past problems.

Petitioner's values are not the same as when he was arrested. Since his misconduct, petitioner has undergone tremendous spiritual, personal, and moral improvement. Petitioner deeply regrets his wrongdoing. Material things are not the basis of his life now. Today, he feels totally different. Success means living up to ideals. Petitioner has adopted a new lifestyle centered around Bible study, prayer and spending time with others of his faith.

During the last four years, petitioner has attended two hours of Bible study per week. In addition, petitioner teaches Sunday school, participates in church readings, and helps clean the church. Petitioner has also received about 80 hours of counseling from his pastor and will continue to do so.

Petitioner feels spiritually transformed and his value system has changed. He feels focused and directed again in his life. Petitioner believes that problems will not defeat him and God will not abandon him.

Pastors Guillermo Mora, Paul Kintner, and Dane Aaker, as well as petitioner's AA sponsor, each submitted a declaration in support of petitioner's petition for relief from his actual suspension. Petitioner was described by several declarants as honest. The declaration of Pastor Guillermo Mora (Mora) was particularly instructive. Pastor Mora, a Baptist Minister, has known petitioner since May 2007 and is aware of the misconduct leading to petitioner's arrest. Pastor Mora stated in his declaration that he holds petitioner's "character in the highest possible regard because he has personally demonstrated to [Pastor Mora] honesty, trustworthiness, and obedience to the law on countless occasions." According to Pastor Mora, in his 45 years as a minister, he has never seen a person grow and change as rapidly as petitioner.

Petitioner has complied with his criminal and disciplinary probations.

**D. Present Learning and Ability in the General Law**

Petitioner has completed 107.25 continuing legal education self-study credits in various areas of the law, including criminal law, family law, discovery, legal ethics, evidence, probate, and bankruptcy. In addition, petitioner has extensively studied the leading practice guides for

Family Law and Immigration Law. Petitioner also took and passed the August 2010 Multistate Professional Responsibility Examination (MPRE).

**E. Discussion**

Standard 1.4(c)(ii) provides, in relevant part, that normally actual suspension imposed for two years or more shall require proof satisfactory to the State Bar Court of the attorney's rehabilitation, present fitness to practice and present learning and ability in the general law before he or she will be relieved of the actual suspension.

In this proceeding, petitioner has the burden of proving, by a preponderance of the evidence, that he has satisfied the requirements of standard 1.4(c)(ii). The court looks to the nature of the underlying misconduct to determine the point from which to measure petitioner's rehabilitation, present learning and ability in the general law, and present fitness to practice before being relieved from his actual suspension. (*In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 578.)

With respect to petitioner's present learning and ability in the general law, the court finds that petitioner has shown, by a preponderance of the evidence, that he currently possesses present learning and ability in the general law based on his continuing legal education, his passage of the MPRE, and his review of practice guides.

Regarding the issue of rehabilitation, "[i]t is appropriate to consider the nature of the misconduct, as well as the aggravating and mitigating circumstances surrounding that misconduct . . . in determining the amount and nature of rehabilitation that may be required to comply with standard 1.4(c)(ii)." (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 578.)

Furthermore, in determining whether petitioner's evidence sufficiently establishes his rehabilitation, the hearing department must first consider the prior misconduct from which petitioner seeks to show rehabilitation. The amount of evidence of rehabilitation varies according to the seriousness of the misconduct at issue. Second, the court must examine petitioner's actions since the imposition of his discipline to determine whether his actions, in

light of the prior misconduct, sufficiently demonstrate rehabilitation by a preponderance of the evidence. (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

Petitioner must show strict compliance with the terms of probation in the underlying disciplinary matter; exemplary conduct from the time of the imposition of the prior discipline; and must demonstrate "that the conduct evidencing rehabilitation is such that the court may make a determination that the conduct leading to the discipline . . . is not likely to be repeated." (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

The conduct that prompted this court to initially take action was serious. Petitioner was convicted in North Carolina for violating statutes prohibiting illegal drug activity. Petitioner's criminal acts involve moral turpitude. In mitigation, petitioner was candid and cooperative with the State Bar. There were no aggravating circumstances.

Since then, petitioner has made substantial gains in his rehabilitation process. Several years have passed since his misconduct. He has recognized his misconduct and has taken steps to learn strategies to prevent such misconduct from recurring. Petitioner is now more mature and has examined the reasons he faced criminal/disciplinary problems. He has not consumed alcohol since April 2007. Petitioner has also complied with the terms of his criminal and disciplinary probations.

The State Bar argues that petitioner's religious conversion and his assurances that he desires to tread the straight and narrow path, while commendable, are insufficient evidence that petitioner's rehabilitation is real. In addition, the State Bar argues that petitioner has not exhibited a real desire to practice law due to his lack of a plan on what he will do if he is returned to active status. The court does not agree.

The court finds that petitioner has presented sufficient evidence of his rehabilitation and present fitness to practice law. Petitioner has taken appropriate and meaningful actions to change the way he conducts his life. Petitioner's value system has changed, and he feels spiritually transformed. In addition, petitioner has dedicated himself to helping others in his religious community. Although petitioner may not have developed a plan for practicing law if



his license is restored, he has developed a life-plan that will enable him to make better choices and carry him through any problems that may occur in his life.

**V. CONCLUSION**

The court finds that petitioner has satisfied the requirements of standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct by demonstrating, by a preponderance of the evidence and to the satisfaction of the court, that he is rehabilitated, presently fit to practice law, and has present learning and ability in the general law.

Accordingly, the petition for relief from actual suspension from the practice of law is hereby **GRANTED**.

Petitioner will be entitled to resume the practice of law in this state when all of the following conditions have been satisfied:

1. The actual suspension imposed by the California Supreme Court in its Order filed on August 3, 2010, in Supreme Court matter S183827, has expired;
2. This order has become final, which includes the expiration of the time for seeking reconsideration and review (Rules Proc. of State Bar, rules 5.115, 5.150, 5.409 and 5.410);
3. Petitioner has paid all applicable State Bar fees and previously assessed costs (Bus. & Prof. Code, §§ 6086.10 and 6140.7); and
4. Petitioner has fully complied with any other requirements for his return to active membership status and is otherwise entitled to practice law.

Dated: April 26, 2011.

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RICHARD A. PLATEL  
Judge of the State Bar Court